

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
DECEMBER 14, 2005**

**CALL TO
ORDER**

A meeting of the Flathead County Planning Board was called to order at 6:00 p.m. Board members present were Charles Lapp, Don Hines, Jeff Larsen, Gene Dziza, Kathy Robertson, Tim Calaway, Frank DeKort, and Kim Fleming. Cal Scott had an excused absence. Jeff Harris, Kirsten Holland, Traci Tull, and George Smith represented the Flathead County Planning & Zoning Office.

There were approximately 75 people in the audience.

**PUBLIC
REVIEW**

Hines reviewed the public hearing process for the public.

**APPROVAL OF
MINUTES**

Robertson made a motion, seconded by Dziza, to approve the November 16, 2005 meeting minutes. The motion passed unanimously.

**PRELIMINARY
PLAT/ HOLT
FIELDS
FPP 05-75**

A request by Janet Sparks for Preliminary Plat approval of Holt Fields Subdivision, a twelve (12) lot single-family residential subdivision on 16.41 acres. All lots in the subdivision are proposed to have individual water and septic systems. The property is located at 1925 Holt Stage.

STAFF REPORT

Traci Tull reviewed Staff Report FPP 05-75 for the Board.

APPLICANT

Rick Breckenridge of Montana Mapping, represented the applicant. He agreed with the staff report, and added there had been a boundary line adjustment since the report had been written. He stated the applicant had modified the original application to include a public water system instead of individual systems per lot. He showed the Board where the well house would be and said there would be adequate water supply for this subdivision to satisfy the Creston Fire Departments' requirements.

AGENCIES

None present.

**PUBLIC
COMMENT**

Jeff Sprowel is opposed to this proposal. The character of their neighborhood, traffic, and wildlife impact is a concern.

Russ Crowder, of America Dream Montana, responded to a letter from Charlie Johnson, regarding paving Holt Stage Road. It is his opinion this is to evade the law. He believes it's the same as impact fees.

**STAFF
REBUTTAL**

Staff responded in regards to the statement made by Russ Crowder. This portion of Holt Stage is already paved and was not listed as a condition. Staff is asking the applicant to pave the internal subdivision road.

**APPLICANT
REBUTTAL**

None.

MAIN MOTION

DeKort made a motion seconded by Dziza to adopt Staff Report FPP 05-75 as findings of fact as amended and recommended approval to the County Commissioners.

**BOARD
DISCUSSION**

Dziza asked if anyone else feel that the evaluation of land value is too low.

Fleming commented the lots are already for sale, and is inclined to take the \$24,000 as a minimum for land appraisal; It's market value.

Robertson stated the Board has this discussion every time and it's a time element as far as getting an appraisal.

Larsen said they can get an appraisal prior to submitting final plat application.

Calaway stated we have to trust the appraisal.

Dziza thinks they could get a legitimate value for a licensed appraisal.

Harris read the following condition, as an option: *Within 6 months of submitting final plat, the developer would have to come in with an accurate appraisal of the land for calculation of parks in lieu.*

Dziza made a motion seconded by DeKort to replace condition #15 with the wording Harris read to the Board. On a roll call vote the motion passed unanimously.

Robertson made a motion seconded by Dziza to add Condition #16 to read: *The applicant shall reflect the boundary line adjustment prior to submitting final plat.* On a roll call vote the motion passed unanimously.

**MAIN MOTION
ROLL CALL**

On a roll call vote the motion passed unanimously.

**PRELIMINARY
PLAT/
ROCKY TOP
FPP 05-76**

A request by Steven and JoAnne Russell for Preliminary Plat approval of Rocky Top Subdivision, a three (3) lot single-family residential subdivision on 5.38 acres. All lots in the subdivision are proposed to have individual water and septic systems. The property is located at 121 Horseshoe Drive.

STAFF REPORT

Traci Tull reviewed Staff Report FPP-05-76 for the Board.

APPLICANT

Steve Russell, applicant, stated the goal is to divide this parcel of land to give to their kids.

Rick Breckenridge, of Montana Mapping, stated he had a couple of issues with the conditions. He handed out a document, to the Board, in regards to paving the road. Condition #3 states the applicant must upgrade the road to County standards. He stated in a letter, dated 1992 from the Many Lakes Homeowners Association, they are asking where the \$8000 is that was set aside to widen and gravel the road in Many Lakes Vacation Village IV. The applicant should not be responsible for the paving of this road. Paul Wachholz, who developed Many Lakes Vacation Village IV, and the County were given the money to do this. Mr. Wachholz was to put up another \$15,000 to make sure that happened. Breckenridge stated the County and Paul Wachholz should have to pave that road and bring it up to County standards. The Russells should not have to. Since staff has identified Cree Lake as critical stabilization and habitat, he wanted to know if that area could be maintained as open space instead of parks-in-lieu. He stated since the Board is asking for comparative market value before final plat submittal, can they agree to use commitment of title that lists the value, instead of what the property is selling for. Breckenridge asked the Board to consider modifying conditions #3, and #12.

Robertson stated putting that as dedicated parkland would be classified as a material change to the preliminary plat. She pointed out he has building sites in that area, and thinks they would have to resubmit the preliminary plat with that parkland dedication.

Staff is neutral. They can't speak for Jed Fisher, the Parks and Recreation Department Supervisor, but typically he doesn't want these small pieces.

AGENCIES

None present.

**PUBLIC
COMMENT**

None.

**STAFF
REBUTTAL**

None.

**APPLICANT
REBUTTAL**

None.

**MAIN
MOTION**

Calaway made a motion seconded by Larsen to adopt Staff Report FPP-05 as findings of fact as amended and recommended approval to the County Commissioners.

**BOARD
DISCUSSION**

Calaway made a motion seconded by Robertson to replace condition #12 to read: *Within six months prior to Final Plat submittal the applicant will provide three comparable recent real estate sales, from a MAI (Member Appraisal Institute) Certified Montana Appraiser, for the*

calculation of the Parkland cash-in-lieu fee. The applicant is required to pay the fee amount calculated by the County Planning and Zoning Office. [Section 3.19, FCSR].

Larsen wanted to know if they could have the option of getting an appraisal.

Robertson commented this is an inconsistent process.

Calaway said it's up to the applicant.

Fleming said she would like to see it be consistent and accurate.

Lapp stated the definition of a cash donation is the fair market value of undivided, unimproved land.

Dziza stated the most accurate value is determined by a licensed appraiser.

Staff's opinion is that we get a certified appraisal within 6 months prior to submitting final plat application. He also pointed out there is a cost for getting a certified appraisal, which could be a concern. That cost would pass on to the applicant.

Calaway commented on the checklist, that staff and Board have talked about in the past, which seems to be the way to go with this. The applicant and staff would be informed as to what is recommended and required and there would be no surprises.

Lapp stated if it's a simple appraisal, it doesn't take long and it would be a simple process.

Calaway said we should put the onus on the developer.

Robertson made a motion seconded by Fleming to add a sentence to condition # 14 to read: *Since the portion of lots that abut Cree Lake are critical bank stabilization areas and wildlife corridors, these lots should not be developed or altered.*

On a roll call vote the motion passed unanimously.

Calaway referenced the letter, from the homeowners association, regarding the paving of the road, and made a motion seconded by Dziza to strike condition #3 from the staff report.

Larsen doesn't think it's legal and it would be an impact fee.

Robertson wanted to know where that money is.

Calaway stated they would have to do an audit.

Fleming stated the homeowners used the term gravel road several times. We can't expect the money, that was set aside, to pave the entire length of that road and is not in favor of asking them to pave it. She also resents the term impact fees. They don't have the authority to do that.

Larsen stated that it was just a quote.

On a roll call vote the motion passed unanimously.

**MAIN MOTION
ROLL CALL**

On a roll call vote the motion passed unanimously.

**PRELIMINARY
PLAT/EAGLES
CREST BLUFFS
FPP 05-74**

A request by David Carpenter for Preliminary Plat approval of the Resubdivision of Lot 12 of Eagles Crest Bluffs, a two (2) lot single-family residential subdivision on 10.85 acres. All lots in the subdivision are proposed to have individual water and septic systems. The property is located at 1143 Trappers Creek in Somers.

STAFF REPORT

Traci Tull reviewed Staff Report FPP 05-74 for the Board.

APPLICANT

Rick Breckenridge, of Montana Mapping, represented the applicant. He showed the Board the secondary access for this development and stated he wasn't sure if it was finished and passable. This proposal simply splits this lot in half and already has water available. The road is paved and the power is in. He has no problem with the conditions as stated.

Larsen asked about the secondary access.

Breckenridge stated the road is in and is drivable. When he did the survey, he drove through there, but is not sure how far a person can go in. He stated there are actually three subdivisions in this area. This proposal is a minor, there is another minor, and the first one was the major subdivision. He presumes in final plat application, of the major subdivision, the staff did drive the road.

Robertson asked if it goes to Highway 93.

Breckenridge stated it is there.

Hines wanted staff to ask Trevor Schafer, the original developer, to show staff the access road and the fire recharge system at some time in the future. He wants a letter from staff stating that fact.

AGENCIES

None present.

**PUBLIC
COMMENT**

Dan Bangeman commented he was on the Board when the original application for Eagles Crest Subdivision was approved, and since then there have been three other applications to split the lots. Once these proposals are approved they should stay that way and not be cut in half. The Lakeside Marina will want more as well because they are asking for boat slips that coincide with the number of lots that are approved in this area.

**STAFF
REBUTTAL**

None.

**APPLICANT
REBUTTAL**

This is not part of the major subdivision that was reviewed by the Board. Consequently this is the very first lot reviewed by this Board. This minor subdivision has never been reviewed and stands on its own. We should allow the Fire Chief, in each of these areas that are being subdivided, to tell us what they want instead of guessing. Allow the professionals to dictate what they require. The Fire Department is better suited to tell us that.

MAIN MOTION

Dziza made a motion, seconded by Calaway, to adopt Staff Report FPP 05-74 as findings of fact as amended and recommended approval to the County Commissioners.

**BOARD
DISCUSSION**

Hines made a motion seconded by Robertson to add condition #17 to install a 10,000 gallon recharge system for fire suppression in this subdivision.

Larsen wondered if this is the right place to put this system. We could condition it so the applicant would need a letter from the Fire Chief telling them where this type of system needs to go.

Hines stated the Board keeps hearing the same thing and is getting nothing in regards to fire suppression. He also stated that at least the applicant will have done his share in taking care of this need to get something done for his portion of this subdivision.

Calaway read condition #7, regarding reasonable fire suppression. He commented one homeowner is not responsible to put this system in. The original developer should have to comply with the request from the Fire Chief, and if he hasn't done so, that would put this on hold for final plat until he meets those requirements. We need to get the original person to comply with his portion of the requirements.

Larsen stated minor subdivisions don't go through fire review.

Calaway stated we need to find out what has and has not been done since the original agreement.

Staff commented it's the Flathead County fire service area but

Lakeside/Somers will respond and bill the County.

Robertson offered to talk to the Fire Chief and find out what needs to be done in regards to this ongoing problem.

Larsen stated we have to address this safety issue and maybe the Board should put a hold on this subdivision. He doesn't know the right solution. The Board could keep going as they are and never address this issue but it is a concern.

Calaway stated the Board should find out what needs to be done.

Dziza said the Board could take action under new business as far as requirements.

On a roll call vote the motion failed unanimously.

**MAIN MOTION
ROLL CALL**

On a roll call vote the motion passed 7-1 with Hines dissenting.

**PRELIMINARY
PLAT/
WHITEFISH
HILLS PHASE 3
FPP 05-57**

A request by Whitefish Hills, LLC and Paul and Shelly Coe for Preliminary Plat approval of Whitefish Hills, Phase 3, a twenty-two (22) lot subdivision on 440.01 acres. All lots in the subdivision are proposed to have individual water and septic systems. The property is located at 75 Whitefish Hills Drive.

STAFF REPORT

Kirsten Holland reviewed Staff Report FPP 05-57 for the Board.

APPLICANT

Tom Sands, of Sands Surveying, represented the applicant. He handed out a hand map to the Board. He stated the Whitefish Hills project started in the early 1990's. They have approval for this piece of property for 40 acre parcels. However, marketing has dictated that 20 acre parcels will sell not 40 acres. Therefore, we have redesigned the road and lots to make 20 acre parcels. He added a linear road is a much better design for this project. He said a straight stretch of road along timber and state lands would not make sense, but if they put a curved linear road and shift the equestrian trail along state lands and leave the space for guest house, they would be within Whitefish Hills covenants and it would be aesthetically pleasing as well. All the roads in Whitefish Hills are currently paved. It is a gated community, and that's the reason they did not want this to be a bypass road to the city of Whitefish. There is a tanker recharge in place that's been there for 5-6 yrs.

AGENCIES

None present.

**PUBLIC
COMMENT**

None.

STAFF REBUTTAL	None.
APPLICANT REBUTTAL	None
MAIN MOTION	Dziza made a motion seconded by Calaway to adopt Staff Report FPP 05-57 as findings of fact, as amended by staff, and recommended approval to the County Commissioners.
BOARD DISCUSSION	None.
MAIN MOTION ROLL CALL	On a roll call vote the motion passed unanimously.
PRELIMINARY PLAT/ABEL RANCH FPP 05-71	A request by Paul D. Abel for Preliminary Plat approval of Abel Ranch, a four (4) lot single-family residential subdivision on 60.693 acres. All lots in the subdivision are proposed to have individual water and septic systems. The property is located at 361 Farm Road.
STAFF REPORT	Kirsten Holland reviewed Staff Report FPP 05-71 for the Board.
APPLICANT	<p>Paul Abel, applicant, stated he was surprised by a couple of things in the staff report. He gave a couple of letters to the Board. One from the US Department of Agriculture, and another from the MT State Department of Natural Resource Conservation. He stated this proposal is three 5-acre parcels, and one 45-acre agricultural parcel. He gave the Board some background information and why he is subdividing his property. He said he was not informed at his pre-application meeting that he would have to dedicate a bike path easement, and he stated the planning staff told him he would not have to pave this road because the lots abut a County road. He referenced Goose Meadows subdivision, currently being developed just north of him and said they were not required to pave. Just north of that property is Pheasant Haven, two 10-acre parcels, who also were not required to pave the road or dedicate a bike-path easement. He referred to several other subdivisions not required to pave or dedicate a bike path easement. He is asking to be treated the same as his other neighbors. The entire length of the road does not have a bike path. He asked the Board to save the wildlife corridor and waive this condition.</p> <p>Jim Burton, of Jackola Engineering, also pointed out the other subdivisions approved prior to this application, and that they were not required to pave roads or dedicate a bike path easement.</p>
AGENCIES	None present.

**PUBLIC
COMMENT**

Rick Breckenridge, of Montana Mapping, said he was the surveyor for Edwards and Ficken Farms Subdivisions. He said the first eight (8) lots were done before the County changed the policy on bike path easements and it was not a requirement for those subdivisions. Secondly, of Goose Meadows' seventeen (17) lots, none of these lots abutted a County road. They paved 3300 feet of road for dust abatement per the County's request to pave 50 feet per lot. He is not for or against this proposal he just wanted to give the Board some information.

**STAFF
REBUTTAL**

Holland stated the County Road Department recommended paving in the pre-application meeting and she passed that on to the surveyor and the applicant. The bike path recommendation is an important one, and staff is doubtful that the County Commissioners would not to require a bike path dedication in that location. In spite of Mr. Abel's planting, there might be some way to design this subdivision to incorporate that if it comes to that point. He does have an argument that will require a unique solution.

Goose Meadows final plat application has not yet been submitted. Things change over time, depending on who is in office and what the County decides to do in light of different situations, but staff would like to point out things have changed. It is the County Road Departments recommendation to pave that road in light of dust issues.

**APPLICANT
REBUTTAL**

Mr. Abel stated his comment regarding Goose Meadows was that the lots were long and narrow. He didn't object to bike path easements.

MAIN MOTION

Larsen made a motion seconded by Calaway to adopt Staff Report FPP 05-71 as findings of fact and recommended approval to the County Commissioners.

**BOARD
DISCUSSION**

Fleming remembers requiring paving on Goose Meadows Subdivision. She also commented this does not conform to the Master Plan. The comments on dust abatement are valid. The proposal has a cul-de-sac with a dead end and she doesn't like more 5 acre lots.

Calaway detests 5-acre lots, he feels these will be 5-acre weed patches. He would like to see more density; it will be more manageable and profitable. He understands a person can't afford to raise crops and knows what he is faced with, but would like to see Mr. Abel break the mold and go denser with its own water system.

Larsen stated the Commissioners wanted 5-acre tracts, that was all you could do. If you didn't propose 5-acre tracts you couldn't do it. If you proposed 5-acre tracts you were approved every time. It became known the Master Plan supported 5-acre tracts, but if you really read it, the document does not support that. We went that route for so long we had a lot of 5-acre tracts all over the place. The way the Growth Policy statute is written, the Growth Policy is not a regulatory

document it's a guide document, and you can't use it to guide subdivision you have to consider the consistency with the area. This is consistent with what is around it.

DeKort says it's impossible to say 5-acres is the wrong thing to do. It is in a forested area, and farmland is not forest. We are in the process of defining the policy for certain areas. He doesn't like 5-acres and cannot support this. The applicant needs a plan for the whole thing.

Robertson likes clusters and has no problem with 5-acre lots, but this is a different place. The fact that these lots were family transfers, 4 ranchette lots, now 4 more lots, she feels there needs to be a plan for this, otherwise it's going to look like a street with a bunch of large lots with no imagination.

Dziza asked for clarification about family transfers and boundary line adjustments on the property line.

Holland commented the family transfers are still in the family and have not been sold to other people. He still owns all of the lots.

Dziza prefers to see a cluster and says in regards to the bike path easement we need to maintain consistency. Mr. Abel should be commended for the effort he has put in to his shelter belt. He wants to maintain that for soil conservation and wildlife habitat. He doesn't feel that developing this into 5-acre lots is injurious to that shelter belt, and he can't support this.

Calaway would like to see the subdivision be redesigned, improved, and brought back with some clusters. Family Transfers scare us all. Mr. Abel should bring this back with a plan.

Fleming stated it could be much easier preserved with a cluster.

Lapp said he is in a unique situation and if he could shift things around and use what is there he could have a nice subdivision. He also said more roads will need to be put in sometime.

**MAIN MOTION
ROLL CALL**

On a roll call vote the motion failed unanimously.

Robertson made a motion seconded by Fleming to deny Staff report FPP-05-71 and recommended denial to the County Commissioners based on lack of an overall plan.

On a roll call vote the motion passed unanimously.

**MAJOR LAND
USE PLAN/**

A request by Spoklie & Hoover for a Major Land Use Review for operation of a commercial gravel site in the C.A.L.U.R.S (Canyon Area)

**SPOKLIE &
HOOVER
FCMU 05-03**

Zoning District. The property is located at 1252 Belton Stage Road in West Glacier.

STAFF REPORT George Smith reviewed Staff Report FCMU 05-03 for the Board.

APPLICANT Greg Stevens represented the applicant. He said this is a gravel pit in an unzoned area and is subject only to DEQ approval. It is different from Conditional Use Permits and not controlled by County zoning but by CALURS zoning, which is a mixture of performance based and traditional zoning techniques. He quoted the Canyon Plan and sited they anticipated industrial uses, particularly gravel pits. He also stated that we are required to evaluate this application because the applicant wants to increase their use by more than 25 percent. He said staff ignored the necessary requirements of the CALURS zoning regulations, and it shouldn't be taken lightly. He said the Staff Report is useless for making a decision as it ignores all the categories in the regulations. He began reviewing a few of the points. In regards to the increase of the pit area, he stated the pit was never only 2 acres. He will provide pictures of the site to back that up. He provided an aerial photo of the site and pointed out the surrounding area uses. He feels the surrounding areas are not all residential. He also stated this pit is not visible from any surrounding areas. He is a little confused as to why this is a non-conforming use when it complies with CALURS. He questioned the 'grandfather clause' and stated it is not the Planning Board's decision as to whether it is or not. It is up to the Zoning Administrator or the County Attorney. He has spoken with DEQ and researched whether it was originally a 2-acre pit. He stated DEQ did the Evans (original owner) pit a favor by not including the stockpiling area in the application.

Bruce Barrett handed out some information from DEQ that he acquired this morning. Stevens commented Barrett is more familiar with this pit than he is and therefore will be helping with the presentation. Barrett said the real question is the status of the pit and the size of it before zoning occurred. The second question is whether the applicant has increased the size of this pit. Barrett gave some history of the pit. The first site inspection of the pit (handed out) by DEQ was done in 1990, which concluded there was a full gravel pit consisting of 7-acres excluding the reserve. He quoted the letter, which clearly states this was an active pit. He showed photos from 1990 DEQ that showed the whole pit of 7-8 acres. He commented at that time they were not required to permit the whole area (reserve, stockpile, and storage of equipment) but rather just the mining area. DEQ required Spoklie & Hoover to permit the entire area when they purchased this gravel pit. Barrett reiterated this pit is the same as it was in 1990.

Stevens commented that now we can see why we don't want to dwell on the grandfather issue; He stated it is irrelevant. The evaluation of

the request simply does not address the zoning. In regards to stockpiling the manure, straw, and sawdust, they did it as a favor to the Glacier National Park concessions. If it's a problem for bear attractants they just won't do it anymore. Stevens went through the findings of fact and disagreed with each of them. Staff recommendation can't be accomplished without a counter evaluation. There are safety concerns with the transportation of gravel through Columbia Falls, Badrock Canyon, and Hungry Horse for the Going-to-the-Sun road rebuild. He feels the impacts would be less if this pit were to remain active to service that area. Stevens handed out a list of items he feels the Planning Board members are required to address by the zoning regulations. He commented the regulations are basically there to protect the highway corridor from unsightly development, and to protect the river corridor and riparian boundaries. These performance standards have to be reviewed by the Zoning Administrator, Mr. Harris, and he is to report to the Planning Board. Stevens went through the criteria established by law that are required to be reviewed by the Board. He also stated the Chapter 5 guidelines, as opposed to standards, need to be addressed. He commented on the turnout, and stated the Board will like the well organized professional opposition that is represented here tonight. He also stated that have a lot of experience in stimulating, organizing and motivating community opposition. It will be interesting.

AGENCIES

None present.

PUBLIC COMMENT

Charlie Logan represented a majority of the homeowners in the Middle Canyon area. Forty-two stood and were recognized. He asked the Board to deny this proposal and request all gravel pit operations to cease until further investigation and that the applicant should reclaim and rehabilitate the portion of the pit he illegally expanded since the purchase of the property. He also stated the community believes this does not meet the Grandfather Clause, as this property was advertised as residential for 1 year 3 months, well over the 180 day requirement. Therefore it was not a continuous use for all the years as previously stated. He quoted Rod Samdahl, of the DEQ, that this property was used as landfill in his opinion, after he assessed the property in May of 2002. He stated this request was unanimously denied by the Middle Canyon Land Use Advisory Committee. They believe the safety of the residents and tourists will be compromised, The Middle Canyon Plan will be severely compromised, the residential water well could be depleted or contaminated, they will have reduced property values and quality of life, economic benefits from tourists in and around Glacier national Park and the Flathead Valley will be lost, wildlife use area will be permanently disturbed. The County would be rewarding the owner of the gravel pit who has expanded the pit in violation of the Canyon Area Land Use Regulatory System and has already shown a lack of respect for the County, the Middle Canyon Plan, and the residents by continuing to operate and expand without a permit. Mr. Logan

proceeded to go through each of those issues and elaborated on them. (See letter attached)

In summary, please put the needs of the community, the zoning regulations, and quality of life above the desire of one individual for personal gain. He requested the Middle Canyon Plan and the zoning regulations be upheld and to not allow one individual to ruin the very reason we all moved to this area. Deny the variance to the plan, deny a major land use permit application and require Mr. Spoklie to reclaim the site to its original state.

John Hinchey said he and six neighbors live west of this property, along the river. It's been peaceful for the past thirteen years, but for the past two years he has heard the constant grinding and banging of rock crushers. The Middle Fork of the Flathead River is a wild and scenic corridor, and between spring and fall there are many float trips, scenic trips, fishing trips, and individuals out enjoying environment. He believes people can hear the noise as they are going down the river and it is degrading their experience. In addition, there is a game crossing where people used to sit and watch moose, deer, etc., that do not cross there anymore. He believes in property rights visitors have rights too.

On a side note, he said between 2000 and 2002, he tried to get gravel and was told the pit was no longer in operation. Finally, Staff and the advisory committee recommended denial; Respectfully follow those two recommendations.

Monica Jungster grew up in Apgar and owns a gift shop in Glacier National Park. She commented on the application which she looked through in the Planning Office. She believes in due process and made a call to DEQ and The Governor's office, as a concerned citizen, and was told they are aware of the pit and are watching it. There needs to be a resolution in procedural process. She is concerned about this project with the diverse ecosystem being compromised.

Chris D. (inaudible) stated we need a gravel pit in that area. It is well within the plan to allow existing businesses to expand as the Canyon continues to grow. Gravel doesn't need to be hauled from the valley. His main point is safety and property rights. Most of highway fatalities and serious accidents happen in the Badrock area and on the dangerous Southfork bridge. This Board can reduce truck traffic through a dangerous area of Badrock Canyon by allowing a local pit which can provide safe travel and hauling of gravel as the area continues to grow. He asked the Board to please use common sense to protect the legitimate rights of property owners. It will help the economy. Consider safety in that area.

Pat McClelland, of the Middle Canyon Land Use Advisory Committee, showed some pictures of Glacier National Park. She stated the

Committee had a public meeting; approximately 100 people attended. Everybody had an opportunity to speak on this proposal. They recommended denial of the application.

Brace Hayden, represented the National Park Service, said Glacier National Park is designated as an international biosphere and a world heritage sight. He stated they supported the development of the Canyon Plan and CALURS. Glacier National Park agrees with the recommendation of the Middle Canyon Land Use Advisory committee. He encouraged the Board to do the same. He talked about air quality in the park and the dust plumes that will compromise that rating.

Ann Fagre read a letter from Dan Wineburg of Montana State Senate. He is opposed to this application, which is in his district. He stated that we need to preserve and protect the natural environment.

Mr. Fagre said the Board has the authority and the mechanism to deny this application. This is a validation of the planning process; of the people, by the people, and for the people. He asked they honor that.

Richard Hunt submitted a letter and wanted to commend the Board for sitting through this process and appreciates their service. He wanted to reinforce the comment about Spoklie being a poor neighbor. He commented about the regulations and that they need to be abided by.

Karen Kiley read a letter she submitted, which mentioned property values and wildlife being affected.

Katherine Richter expressed concerns about why these applicants are not being treated like the rest of the area residents. She personally was fined for violating a zoning law and wants justice in this case. She also stated Mr. Spoklie doesn't own property on the highway and cannot put a sign there.

Terry Divoky had submitted a letter, and she wanted to comment that Glacier National Park should be preserved and maintained being the beautiful place it is. She read a letter from a tourist that had visited the park this past summer, and stated we should protect the area so future generations can enjoy the park.

Neil Bruster wanted to refute the comment that it is not residential land. His family has been in the area for well over 100 years. He can see the gravel pit from his property, and wanted to comment that there is a large assumption that Glacier Park will be getting the gravel from this particular pit.

Russ Crowder, of America Dream Montana, addressed Chapter 1 of the Flathead County Zoning Regulations which talks about promoting

general public health, safety and welfare. A major issue has been raised regarding public safety. He talked about how improvements to the roads between Hungry Horse and West Glacier have been delayed for quite some time. There will be a lot more activity up there and the gravel has to come from somewhere. He commented most of the concerns he has heard this evening are addressed in the 26 conditions being proposed, from dust issues to water quality. This is a public safety issue.

**STAFF
REBUTTAL**

Smith took offense to the fact that he didn't address all the issues in CALURS. He feels they did address all the issues in the staff report. He stated the Planning staff has to have a basis for the County to decide what the expansion starts with, and by DEQ records staff feels this is the original 2 acres. Grandfather clause has to be taken into account due to the fact the nature of the entire application varies on whether it's Grandfathered or not. If the Grandfather Clause does not stand then this whole meeting should stop, and the applicant should return with an application for an initial project. They are operating with a letter of authorization issued by the Planning and Zoning office, they are not operating illegally.

**APPLICANT
REBUTTAL**

Stevens stated we have a regulation and we have to address every one of those items and the administrator has to describe the compliance or the deviation with those standards. They will operate by the rule of law or ignore it and operate under personality and emotion. There is a set of regulations with specific standards and guidelines and they have to be addressed by the Board and the County Commissioners.

Stevens stated Mr. Spoklie is willing to work with the Road Department and donate materials to pave the roads in that area. These regulations don't address the biosphere and are not intended to address the biosphere. He stated the Board is left with a decision to proceed and address the performance standards and guidelines set forth in CALURS. He feels there are two ways to proceed with this. The first one being taking a look at the report; If the Board has any disagreements, they can write them down and adopt their own findings of fact and forward a recommendation to the Board of County Commissioners. The other option is to table this until you can make a complete evaluation of those performance standards and guidelines.

Harris appreciated Mr. Stevens pointing out some of the shortcomings in the staff report. However, we do stand by our staff report. There are provisions in the CALURS that talk about the purposes to protect the unique natural resources of the Canyon, to promote general health safety and welfare in the Canyon, and to encourage the most appropriate uses in the Canyon. Those are also contained in the CALURS. We had an application and supporting documentation and we had a meeting in West Glacier. Each of these stated there was limited gravel production for about a ten year period. He pointed out the tables in the staff report and stated the pit was not in operation for

that period of time. He also said we have no position on the Grandfather Clause, we have affidavits on both sides. The use beyond the original 2-acre industrial use is not compatible with the surrounding area. In a residential area, safety is a concern and we have an industrial use in a residential area. We are basing our evaluation on setting up reasonable conditions to the Grandfathered area.

MAIN MOTION

Calaway made a motion, seconded by Robertson, to discuss Staff Report FCMU-05-03. All were in favor.

**BOARD
DISCUSSION**

Dziza asked Barrett if there are any other active gravel mining operations in the area. Barrett replied there are 2 other pits on Belton Stage Road.

Dziza asked Staff how far from Highway 2 this pit is. Smith replied it is approximately 2 miles from the road. It is all residential on large lots leading to this pit.

Calaway said the travel is a definite concern and the traffic will be an issue. He also stated 180 days of inactivity is unreasonable given this pit doesn't operate in the winter months. It is a valuable resource and if it is used it would save fuel and costs to park service. We have to think about the economics and the benefits of having a gravel pit in that area. We could condition it to make it so there could only be 5-acres open at a time and make it so it can't be bigger than it is now. He stated the pit was probably used all those years but they didn't keep track of it at that time. The benefit of having a gravel pit in that area is way too large for everyone in the Flathead Valley. He believes it is way too big of a benefit economically and safety wise to shut this pit down. We could regulate it and condition it.

Larsen is concerned the Administrator should review the performance standards and guidelines and provide a letter to the Board. He read the rest of the guidelines for the Board. The Commissioners will approve or conditionally approve the land use change. Larsen would like staff to evaluate this better so the Commissioners will have a better understanding of the standards and guidelines. Both sides of this contentious issue need to be considered. He would like the standards addressed and evaluated and would like this to be tabled so staff has the opportunity to do so.

There was discussion about tabling this proposal until the next regular meeting, but with the possibility of new Board members being appointed there would be a sharp learning curve, which could be problematic.

Larsen asked if we could have a special meeting and if staff could be ready.

Robertson would like it to be postponed.

Harris stated we have 2 options, continue this next week, or close the public hearing and not act on this proposal, postpone this until next week and have only Board discussion and act on the proposal.

**MAIN MOTION
ROLL CALL**

Robertson made a motion seconded by DeKort to continue this proposal until next week, December 21, 2005.

On a roll call vote the motion passed 7-1 with Fleming dissenting.

OLD BUSINESS

None

NEW BUSINESS

Harris made sure the Board members had a copy of the Issue Papers and a copy of the comments from the visioning meetings and stated we will be taking comments at any time.

Tull addressed Eagle Development Phase III, the condition states the applicant shall provide a secondary access road; They have not filed for final yet.

The Board conditioned Eagles Crest Vistas stating the applicant shall install a minimum 5,000 gallon non-automatic rechargeable tanker recharge facility at a location agreed upon between the developer and Somers/Lakeside Fire Department. They have not submitted final plat. The Board requested a letter from staff to the developer stating they want to take a tour of the site with the developer.

ADJOURNMENT

The meeting was adjourned at approximately 12:00 a.m. on a motion by Robertson seconded by DeKort. The next meeting will be held at 6:00 p.m. on December 21, 2005.

Don Hines, President

Mary Sevier, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 2/8/06